



STATE OF WASHINGTON

STATE BUILDING CODE COUNCIL

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MINUTES STATE BUILDING CODE COUNCIL

Date: March 11, 2005

Location: SeaTac City Hall

Council Members Present: John Neff, Chair; Peter DeVries, Vice Chair; Dave Baker; Rory Calhoun; Kristyn Clayton; John Cochran; Neva Corkrum; Stephen George; Mari Hamasaki; Tom Kinsman; Steve Mullet; Terry Poe; Dale Wentworth; Ron Fuller

Council Members Absent: Steve Nuttall

Visitors Present: Kraig Stevenson, Diane Hansen, Bob Eugene, Warren Shill, Dave Barber, James Gray, Jerry Crabill, John Allen, Dwight Perkins, Leonard Yarberry, Tom Phillips, Skip Dreps, Diane Gland

Staff Present: Tim Nogler, Al Rhoades, Krista Braaksma, Sue Mathers

CALL TO ORDER

Chairman John Neff called the Council meeting to order at 10 a.m. John welcomed everyone. Introductions were made.

REVIEW AND APPROVE AGENDA

John amended the agenda by adding two items:

4.5, a discussion of John's and Peter's message for 2005 and holding a workshop/orientation session for the Council's next meeting.

5.5, public hearing for certification of state accessibility requirements.

With those changes, the agenda was approved as amended.

REVIEW AND APPROVE MINUTES

The minutes of the January 14 Council meeting were approved as written.

MESSAGE FOR 2005/ORIENTATION & WORKSHOP MEETING

Given the number of new Council members and the number of pieces of legislation this session that reference the Council, John Neff said a workshop/orientation meeting would be beneficial to members. Discussion topics might include the Council's philosophy, the goals and objectives of the Council, the process for reviewing local amendments, the process for reviewing statewide amendments, the rulemaking process, updating the Council's webpage, and increasing outreach efforts. Since an agenda has not at this time been established for the April meeting, John noted that meeting presents an excellent opportunity for such a workshop/orientation session. Peter DeVries agreed. He said that while a handbook is helpful to members, it falls short of personal interaction between Council members. Emphasizing an all-day meeting that's really not a retreat, he concurred with John that an orientation session would be very beneficial. Peter encouraged each Council member to prepare a brief biographical sketch, outlining their background and why they're on the Council.

Tom Kinsman, a new Council member, supported such an orientation/workshop. Dave Baker, a Council member for some time, noted that Council meetings used to be held over a two-day period. The additional time allowed communication between Council members, fostering knowledge, trust and understanding of each other's position. He said the state of Washington loses without such interaction. Tim Nogler suggested that a workshop be held on the Thursday afternoon preceding an in-person Friday Council meeting in April, instead of the combined committee conference call meeting scheduled for April 8. Neva spoke in support of a Thursday afternoon/Friday meeting.

Motion #1:

Peter DeVries moved that the Council schedule a workshop/orientation session on Thursday afternoon, April 7, followed by a Council meeting on Friday, April 8, in the SeaTac area. Steve Mullet seconded the motion. The motion was unanimously adopted.

PUBLIC COMMENT ON ITEMS NOT COVERED BY THE AGENDA

Kraig Stephenson

ICC and HUD recently announced that the 2003 International Building Code (IBC) has been granted safe harbor for residential construction. One item that HUD asked ICC to clarify concerns pedestrian site arrivals. Cheryl Kent, HUD Policy Advisor, clarified that

any amendments to the safe harbor language eliminate safe harbor for the amending jurisdiction. He said the language granting safe harbor is accessible on ICC's website, as well as clarifying information about it. Kraig will save further comments on this issue until the public hearing scheduled on A117.3.

Kraig also said that ICC has published an International Energy Conservation Code (IECC), 2004 supplemental edition. That edition is outside the normal cycle because the IECC has such extensive modification. Its publication gives the Council an additional year to study what will be included in the 2006 IECC. It will assist moving from a state-promulgated to a national energy code, as the Council has previously discussed. Copies of that document are available from ICC.

Tim expressed concern about the safe harbor issue allowing no amendments, because he said that some proposed statewide amendments are to the IBC. Kraig agreed with his concern, since word-for-word adoption is strictly adhered to. He said that variance is possible, but it requires a lengthy HUD approval process. Having instructors at ICC under a grant program to train jurisdictions about the safe harbor process is being explored. Kraig offered to pursue the issue on behalf of the Council. John Neff asked him to please do so.

Diane Glenn

The Master Builders Association (MBA) objects to the City of Kent's amendment to the International Fire Code amending Section 104.1.1. This section allows the Kent fire official to mandate the installation of sprinkler systems and emergency escape windows in the construction of new single-family residences in Kent. Both mandates increase the construction cost of these homes, decreasing their affordability. Section 104.1.1 also allows the Kent fire official broad authority to impose increased setbacks, to mandate the use of fire retardant materials, and to mandate the installation of standpipes, fire sprinkler and fire alarm systems prior to specifying the "fire protection impacts" being mitigated by such actions.

The MBA questions whether the City of Kent has the authority to impose such an amendment. It believes that unique conditions in Kent don't exist to warrant such an amendment. The MBA asks if Kent followed the proper process, and what the future process should be.

John Neff suggested postponing any Council action on this item until the Council orientation/workshop in April. Dave Baker said Kent appears to be amending the code for single-family residences. He said state law clearly states that such amendments cannot be enforced by the local jurisdiction without prior Council approval. John Neff and Tim both agreed. They said the intent of the WAC rule, in Chapter 1, is to be administrative rather than substantive. John Neff said that WAC rule changes are perhaps something the Council wishes to discuss at the orientation session.

Tim said that the City of Kent submitted an ordinance to the Council, but it did not submit a proposed local amendment on the correct form, providing justification for it. Al noted that while the WAC outline exempting administrative chapters correlated well with the Uniform codes, it doesn't correlate well with the International codes. Therefore the WAC needs to be restructured. John Neff agreed.

Peter raised a question about small subdivisions in rural areas, for example, a 5-10 lot subdivision in Chelan County not served by a manned fire department. He asked if the county there can require that single-family residences be sprinklered without Council approval. John Neff noted that questions about what constitutes a local amendment, compared to construction not being allowed, or the implementation of alternate means and methods may be a fine line. He recommended that such questions be discussed at the Council orientation/workshop on April 7 and 8.

Tim said that appendix chapters of the fire code allow sprinkler systems in the absence of fire flow and road access. While that may be the case in the example cited by Peter, Tim said he'd have to examine the specifics of the Chelan County ordinance. However he noted that Council policies and procedures state that the adoption of appendices are at the discretion of local jurisdictions, enforceable without Council approval. Al raised the point that the issue may be considered a land zoning issue rather than a building code issue. John Neff agreed, since a plat approval is involved.

Diane Hansen

Diane asked if the Council orientation/workshop on April 7 and 8 is open to the public. She said that topics to be discussed are of interest to the Washington State Association of Fire Marshals, who she represents, among others. Tim and John Neff both responded that it is a public meeting.

PUBLIC HEARING ON DOJ CERTIFICATION OF STATE ACCESSIBILITY CODE

Al said this public hearing is being held to satisfy the Department of Justice (DOJ) requirement that a public hearing be held regarding certification of state accessibility requirements. He said that it's not a public hearing to help the Council decide whether or not to adopt accessibility requirements. That decision was made by the Council long ago when it decided to move to the IBC.

Kraig Stephenson

Kraig Stephenson, representing the International Code Council. Last night I was at a chapter meeting of ICC, the Northwest Washington chapter. They mentioned that this was going to occur, as far as the public hearing. A comment that came from the group, and code officials there, was that it would be very, very convenient to have one document that has both HUD safe harbor and DOJ certification. So ICC is in support of moving

forward with seeking DOJ approval. I'm aware that a February 23, 2005 letter was sent by our Senior Vice Chairman of Technical Services, Tom Grosk, extending our assistance to form a matrix that discusses a comparison between the ADAAG and 2003 IBC and the '98 standard. It is my understanding that in short order that same type of a matrix is going to be updated to the 2003 ANSI A117. Staff is working on code development right now.

John Neff asked for verification that HUD certifies model codes, but DOJ only certifies state and local codes. Kraig confirmed that. Tom asked if there's a split at the federal level, whereby HUD certifies multi-family residential construction and DOJ certifies everything else. Al said that DOJ is named as the federal enforcing authority for ADA guidelines, ADAAG. Their authority applies to all construction. John Cochran added that under the residential umbrella, a hotel is subject to ADAAG, while condominiums located above the hotel are subject to fair housing under HUD. Rory Calhoun said that DOJ has enforcement capability under Titles 2 and 3 for hotels and rentals. For residential construction, Rory said that HUD rather than DOJ has the enforcement authority. HUD also has authority if federal funding is involved in the construction.

Tim noted that written testimony was received from four individuals: Tom Frost, representing ICC; John Allen, representing the Washington State Association of Self-Help for Hard-of-Hearing People; Nicole Goodman, representing Western Washington University; and Karen Braitmayer, representing Studio Pacifica. Tim suggested that questions raised in the letter from John Allen warrant discussion during the Council's orientation/workshop on April 7 and 8.

LEGISLATIVE REPORT

ESHB 1401

Tim said SHB 1401 passed the House the evening of March 9 as ESHB 1401 by a unanimous vote. This bill requires that the State Building Code Council adopt rules by December 1, 2005, requiring all nightclubs (defined as having an occupancy load of 100 or more) to be automatically sprinklered. Tim said Council staff has monitored the bill, upon which it submitted a zero-impact fiscal note for this agency. A twin Senate bill died, so ESHB 1401 will be referred to a Senate committee. To date that has not happened.

Dave Baker said that ESHB 1401 is significantly different from the version of the bill reviewed by the Legislative Committee, because this bill has nothing to do with liquor. From the beginning, serving liquor was the impetus driving the bill. Previously monitored and enforced by the Liquor Control Board's licensing of nightclubs, liquor is no longer involved at all; and enforcement is by local authorities. John Neff agreed that it's pretty much a different bill, now focusing solely on sprinklers. He noted that the definition of nightclub has also changed. John said the bill's impact on the Council is simply to write the rule. Dave asked if the Legislature has asked for Council input on this

bill. Tim answered that a fiscal note was requested from the Council. He has also had discussions with legislative staff about the bill.

Diane Hansen noted that the revised definition of nightclub is necessary because in some jurisdictions life/safety concerns include more than just nightclubs serving liquor, where overcrowding is the issue. She said that teen dance clubs in some jurisdictions have similar life/safety risks associated with the overindulgence of substances other than alcohol. The intent in changing the definition of nightclub is to make it more inclusive in covering the fire risk. Diane added that jurisdictions that already perform inspections have an existing cooperative interaction with the Liquor Control Board (LCB) inspectors. Thus the fire service generally believes they don't need the bill bringing in the LCB. Doing so is an administratively burdensome process for the LCB.

Regarding the issue of fire sprinklers, Diane Hansen said most fire service jurisdictions acknowledge that they can't perform inspections all the time and overcrowding occurs. The cooperation of the operators of nightclubs is needed to control overcrowding and fire sprinklers are needed to reduce the life/safety risk. Diane said the Association of Fire Marshals doesn't want either restaurants or bowling alleys in ESHB 1401.

Tim said that a statewide amendment to the IFC requires sprinklers in A-2 occupancies. Dave asked if those establishments defined as nightclubs in ESHB 1401 are then automatically classified as A-2 by the Council, thus requiring fire sprinklers. John Neff said that's not necessarily true. He said the A-2 requirement applies to new occupancies and changes of occupancy, whereas ESHB 1401 is retroactive.

Tom Kinsman voiced skepticism about retroactivity that's not based on a factual, baseline standard. He said no standard exists here. While sympathizing with the tragedy in Rhode Island, he said this bill is very hurtful to businesses. Dave agreed. He said it's the same philosophy as requiring a smoke detector in every room that someone can possibly sleep in. Steve Mullet cautioned Council members about taking a stance outside the parameters of how the bill will affect the Council. John Neff agreed. Steve said that Council philosophy is a workshop issue.

Dale Wentworth asked about a timeframe for businesses to comply. He said the original HB 1401 called for 18 months, but that timeframe was not carried forward to later versions of the bill. Tim answered that the rule is effective on December 1, 2007.

SHB 1591

Tim said SHB 1591 passed out of House Committee and currently sits in House Rules, awaiting House floor action. The Council is in an advisory capacity in this bill, about the development of standards for small boarding homes containing 7-16 beds.

SSB 5687

Tim said this bill simply increases the occupancy rate of adult family homes (AFHs) from six to eight. He said the Council classifies adult family homes as single-family, Group R-3. The substitute bill requires smoke detectors in a central point in the corridor outside sleeping areas. John Neff added that Section 2(2) requires interconnected smoke detectors monitored by a central monitoring company. Kristyn Clayton asked the rationale for increasing occupancy from six to eight residents. She noted that an AFH changes to a licensed care facility (LCF) when the occupancy rate rises above six. John Neff answered that it's an economical issue. Tim said the increase accommodates couples more readily.

Dave said the Legislative Committee advised the Legislature that the Council opposes this bill. John Neff agreed. Tim said that a letter to that effect was sent to the bill's sponsor. Labeling the bill a safety measure, Dave suggested the Council discuss the amount of safety desired. He pointed out that instead of the possible loss of six lives, SSB 5687 increases the loss to eight lives per LCF. Tim said testimony was about safety and emergency response time. John Neff said that at the committee level, discussion revolved around emergency response, evacuating eight instead of six people.

Tim said that March 16 is the cutoff for bills passing their house of origin. [This bill died at the cutoff.]

SB 5909

Tim said this bill states that the Council has sole authority to adopt rules for a ventilation system that is required in occupancies that allow smoking. The Council names all occupancies allowing smoking, and those smoking areas are segregated from nonsmoking areas. This bill contains retroactive provisions. It's a compromise bill, encompassing another smoking bill. Tim said that while a fiscal note has not been requested of Council staff, there will be impact writing the rules. He said a special technical advisory group will be involved, and potentially a consultant. Dave, noting the Legislature exempted this bill from energy requirements, said legislative direction is needed. He said someone has to choose whether smoking or energy is more important. John Cochran asked if the Legislative Committee took a position on this bill. John Neff and Tim both answered no. Tim said this bill is being monitored by Council staff. [This bill died at the March 16 cutoff.]

Motion #2:

Dave Baker moved that the Council send a letter to the sponsors of SB 5909 and/or House and Senate leadership, outlining the challenges presented by the bill and asking for direction if they enact this legislation. John Cochran seconded the motion.

Tom Kinsman spoke in support of the motion.

The question was called for. Motion #2 was unanimously adopted.

Tim said he'll draft a letter, submit it to the Council by e-mail for their review/amendment/approval, then send it to the Legislature.

Rory asked about HB 1711, disabled persons parking. Tim said that bill is moving. The substitute version twins its companion Senate bill, SB 5580. Krista added that the bill has been substantially amended. John Neff said there's been lots of controversy about the height of signs. As a result, sign height may be removed from the bill. John said that the bottom line for the prime sponsor is enforceability.

TAG REPORT

John Cochran reported that an organizational meeting of a subTAG of the Existing Building Code TAG was held on Wednesday, March 9. Tasks were assigned to subTAG members, focusing on two issues: (1) Interface of the International Existing Building Code, if adopted in Washington, with the Historic Building Code. Adopted in 1991, John said the Historic Building Code has not been effectively enforced. (2) Interface of the International Existing Building Code, in lieu of or in conjunction with, Chapter 34. Tim said the TAG is using the 2003 edition of the code. It plans to report to the Council by the end of this year, with suggested changes to be incorporated into the 2006 code edition published next year. Tim said that statewide code change proposals may affect the timeframe of TAG meetings. Since the decision to enter rulemaking this year must be made by June, TAGs must meet prior to June 10.

LOCAL ORDINANCE REVIEW

John Neff proposed that the Council postpone local ordinance reviews until after the April workshop.

Motion #3:

Dave Baker moved that the Council not address local ordinances until the May 13 conference call meeting. Peter DeVries seconded the motion.

Amendment to Motion #3:

Rory Calhoun moved that only the City of Duvall's local ordinance be tabled since West Richland's amendments can be quickly addressed based on previous Council action. This friendly amendment was accepted by Dave and Peter.

The question was called for on the amended Motion #3. The motion was unanimously adopted.

Motion #4:

Neva Corkrum moved that the West Richland local ordinance be approved. Rory Calhoun seconded the motion. The motion was unanimously approved.

INTERPRETATION #05-MARCH 01

Krista said this interpretation involves the fine line of when sprinklers are required for an altered occupancy. In this case an existing A-3 occupancy in Kent is remodeled to an A-2 occupancy (a bar with an occupancy load of 246 people). The question is whether sprinklers are required after such a remodel. Krista said the proposed answer to that question is yes, sprinklers are required. The next question is if the space were currently being used as a bar and the space of the bar is being expanded during the remodel, would sprinklers then be required. Krista said the answer to the second question is also yes. John Neff asked if Krista's assuming that the remodeled bar in the second question has an occupancy load above 100. Krista answered yes.

Al noted that in the second question, if the space is not being added onto or remodeled and the occupancy load is not above 100, sprinklers are not required. He thinks the answer to the second question should be maybe. John Neff, while agreeing that some question exists, agreed with Krista's affirmative answer to each question. Tom Kinsman asked Krista if Al's note can be added to her letter to the City of Kent in answer to Interpretation No. 05-Mar 01. Krista said she will address Al's concerns in a cover letter.

Motion #5:

Dave Baker moved adoption of Interpretation No. 05-Mar 01. Steve Mullet seconded the motion. The motion was unanimously adopted.

STATEWIDE CODE CHANGE PROPOSALS

John Neff said the questions are whether to refer the statewide code change proposals now to TAGs for study, or to wait until after discussion at the April orientation session; and whether to return to the normal three-year cycle or adopt the statewide code changes earlier and postpone their effective date. Krista said that forwarding the proposals to TAGs does not commit the Council; however it's important to establish timelines.

Motion #6:

Dave Baker moved to postpone action on statewide code change proposals until after the April orientation session. Neva Corkrum seconded the motion. The motion was unanimously adopted.

STAFF REPORT

Tim announced that Al is retiring from Council staff one week from today. So today is Al's last Council meeting. John Neff met Al at the podium and presented him with a commemorative plaque. John said that Al has been involved in code enforcement for 30 years. John reviewed, and applauded Al for, his work history. Everyone acknowledged his knowledge and hard work, and how much he'll be missed.

Leonard Yarberry also presented Al with a commemorative plaque from the Washington Association of Building Officials and thanked him for his work with WABO over the years.

ADJOURNMENT

Lacking further business, John Neff adjourned the meeting at 11:50 a.m.